

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for July 9, 2003 PLANNING COMMISSION MEETING

P.A.S.: Pre-Existing Special Permit #29A

PROPOSAL: A special permit to allow the sale of alcoholic beverages for consumption off the premises.

CONCLUSION: The Police Department does not support the expansion of off-sale alcohol so it is on both sides of the adult entertainment establishment located in the middle portion of the building. Given the Police Department's position, staff is recommending denial.

<u>RECOMMENDATION:</u>	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 179 and 218, Irregular Tracts, located in Section 34, T10N, R6E, of the 6th P.M., Lancaster County, Nebraska.

LOCATION: East of the intersection of North 33rd Street and No

EXISTING ZONING: 640 West Prospector Court

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Highway 77/Van Dorn Street Interchange	P
South:	Commercial	H-4, R-3
East:	Highway 77	P
West:	Vacant	P

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land use in this area.

AA#03039 - This amendment sought to expand the off-sale to include the sports bar and grill was initially submitted as an administrative amendment to the pre-existing special permit. The amendment was denied by the Planning Director on June 11, 2003 in order for the expansion to have a public hearing, and this request was submitted in response to that denial.

On June 12, 2003, Pre-existing Special Permits 29 and 30 were issued at the request of the applicant for the pre-existing off-sale and on-sale, respectively, at 640 West Prospector Court.

ANALYSIS:

BACKGROUND: The sale of alcohol for consumption both on and off the premises at this location pre-date the special permit provisions of LMC Sections 27.63.680 and 27.63.685 in the Zoning Ordinance. The building is roughly divided into thirds with a convenience store at the west end, an adult entertainment establishment in the middle, and a sports bar and grill on the east end.

A pre-existing special permit has been issued for the sale of alcohol for consumption off the premises for only the convenience store, and another was issued for the sale of alcohol for consumption on the premises and included the entire building. This request is to expand the pre-existing special permit for off-sale to also include the sports bar and grill. It does not include the adult entertainment facility in the middle of the building.

1. SPECIAL PERMIT REQUIREMENTS PER LMC 27.63.685: Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1 and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which can be waived by the City Council:

(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.

The parking lot is paved and complies with the requirements of LMC Section 27.67.020.

(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under Section 27.63.680 of this code.

This application is for a special permit to expand the area where the sale of alcohol for consumption off the premises is allowed. The sale of alcohol for consumption on the premises throughout the entire building is already allowed by Pre-existing Special Permit #30.

(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

There are no day care facilities, residences or residential districts within 100' of the premises. The nearest of these is a daycare facility to the south across West Prospector Court in excess of 200' away.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

No new lighting is being proposed as part of this special permit. The building and parking lot already exist. However, any new lighting will be required to comply with the Design Standards for parking lot lighting (Design Standards Chapter 3.45, Section 3.8).

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not shown as part of this request.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

An amplified outside noise source is not shown as part of this request.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

The access door to the sports bar and grill faces the H-4 district to the south.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to this site is from South Folsom Street and West Prospector Court. Neither of these streets are considered residential streets adjacent to this site.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

(1) Revocation or cancellation of the liquor license for the specially permitted premises; or

(2) Repeated violations related to the operation of the permittee's business.

Planning Commission review and City Council approval is required for this use.

2. **POLICE RESPONSE:** The Police Department has reviewed this request and has no objection.
3. **SHERIFF'S RESPONSE:** This request was routed to the Lancaster County Sheriff's Department for comments. Any comments will be forwarded when received.
4. **PUBLIC WORKS RESPONSE:** Public Works and Utilities had no objections to this request.

CONDITIONS:

Site Specific:

1. This approval permits the expansion of the sale of alcohol for consumption off the premises to include the sports bar and grill as delineated on the site plan.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall have submitted a reproducible final plan with 5 copies.
 - 2.2 The construction plans shall comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:
 - 3.1 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.2 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.3 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

4. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

Brian Will, AICP
Planner
June 25, 2003

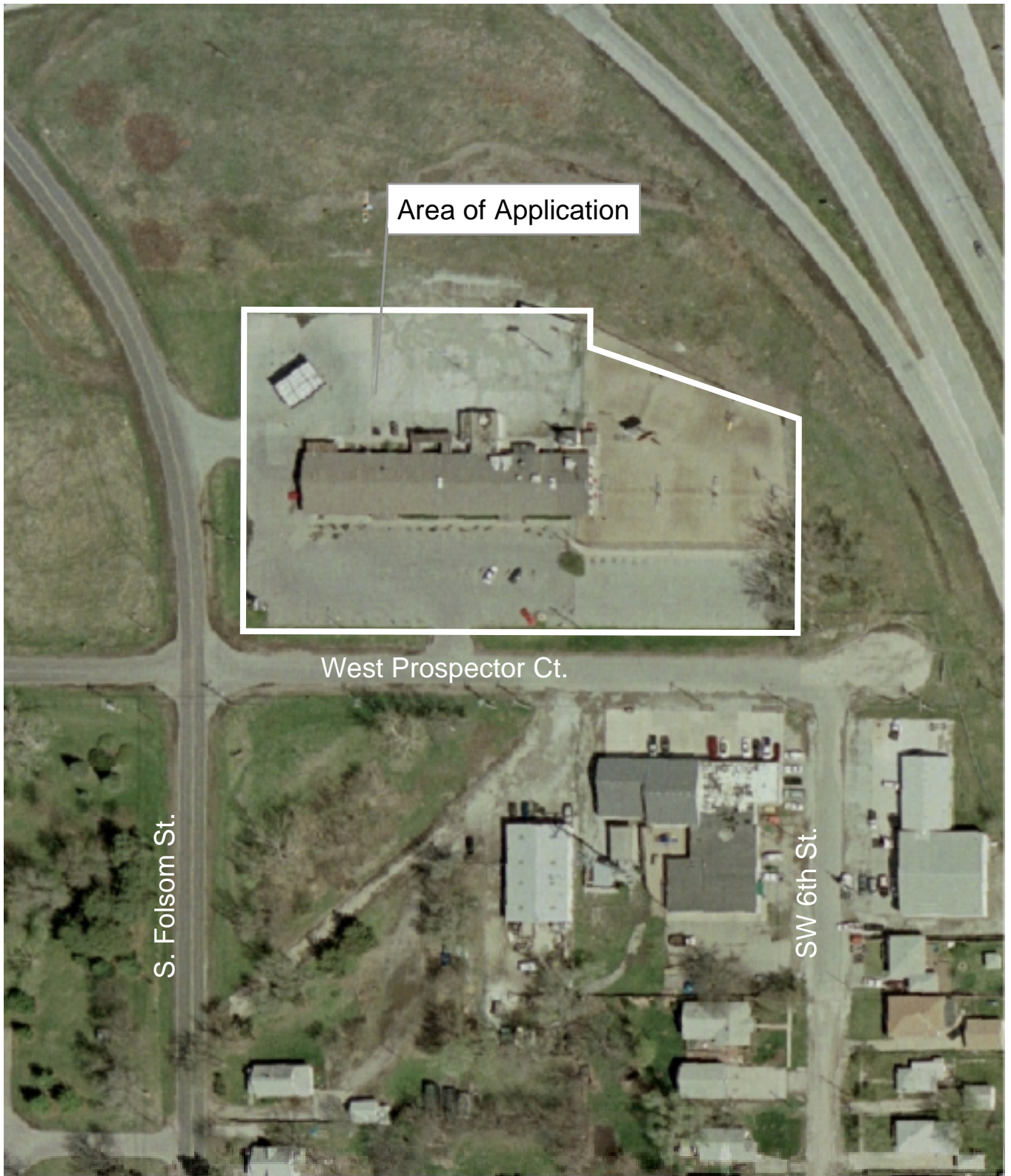
APPLICANT/

OWNER:

Duane Hartman Investments, Inc.
PO Box 22787
Lincoln, NE 68542 (402) 477-6668

CONTACT:

Peter Katt
1045 Lincoln Mall Suite 200
Lincoln, NE 68508 (402) 476-7621



Area of Application

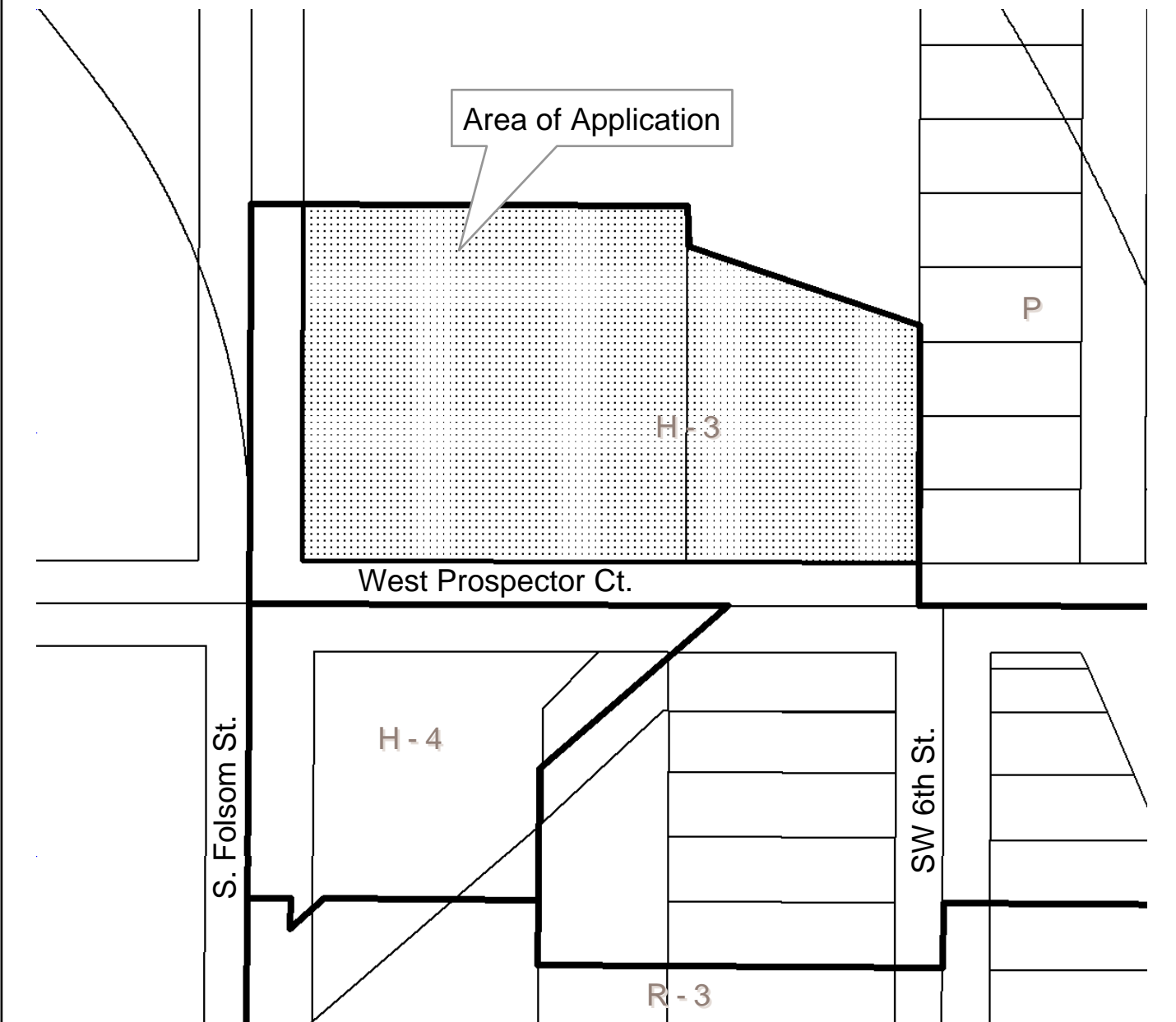
West Prospector Ct.

S. Folsom St.

SW 6th St.

Pre-Existing Special Permit #29A S. Folsom & W. Prospector Ct.



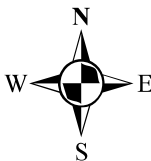
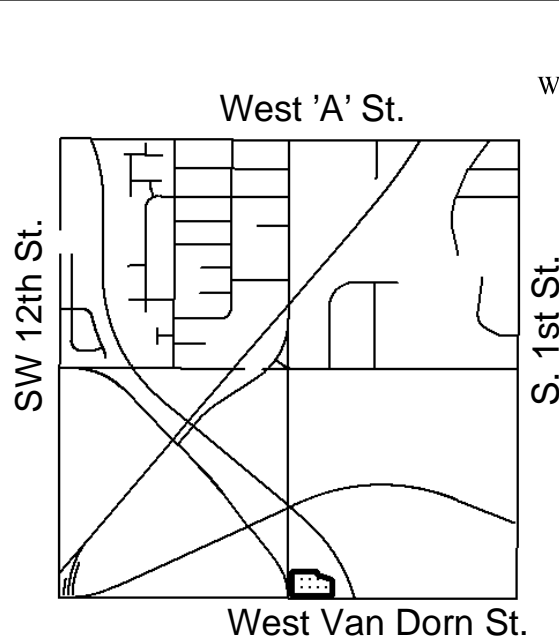
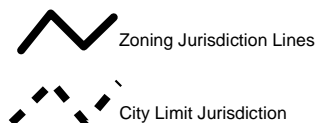


Pre-Existing Special Permit #29A S. Folsom & W. Prospector Ct.

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 34 T10N R6E



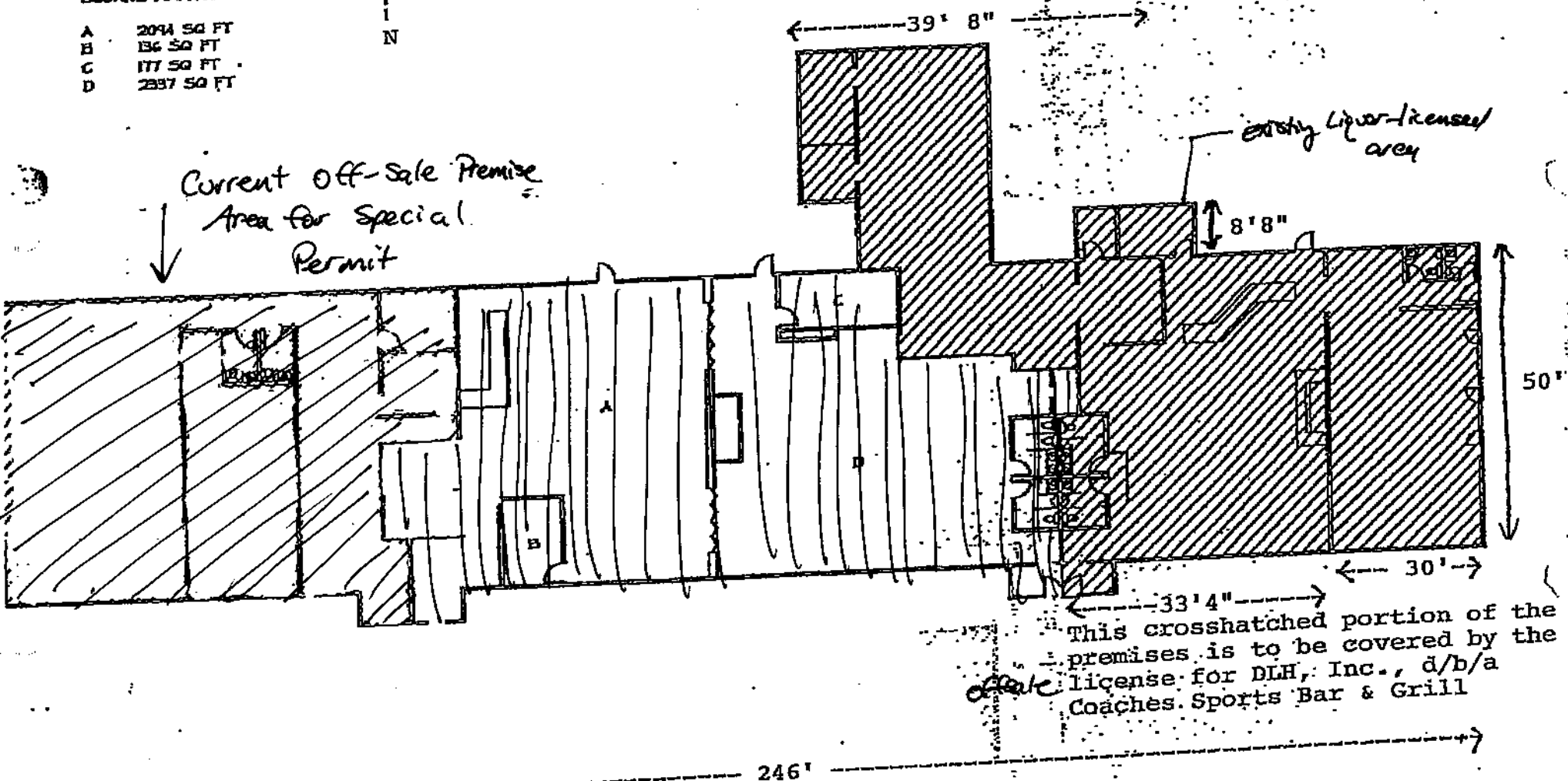
Bibby @ 640 W. Prospector Ct.

SQUARE FOOTAGES

A 2044 SQ FT
B 136 SQ FT
C 177 SQ FT
D 2337 SQ FT

N

Current Off-Sale Premise
Area for Special
Permit



This crosshatched portion of the premises is to be covered by the off-sale license for DLH, Inc., d/b/a Coaches Sports Bar & Grill

EXHIBIT

A